

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMERICAN ASSOCIATION OF UNIVERSITY
PROFESSORS, ET AL.,

Plaintiffs,

v.

MARCO RUBIO, ET AL.,

Defendants.

Case No. 1:25-cv-10685 (WGY)

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO COMPEL THE
DEPOSITION OF NADJE AL-ALI**

Plaintiffs write in brief opposition to Defendants' motion to compel the deposition of Nadjé Al-Ali. ECF No. 180. Having stated in court just last week, "[D]epositions, that's a nice thing to have. We don't need them," Tr. of Final Pretrial Conf. at 16:19-21, Defendants now move the Court for an immediate order for Ms. Al-Ali's deposition based on a misleading representation of the facts. Specifically, Defendants claim that Plaintiffs "rebuffed" their efforts to reschedule Ms. Al-Ali's deposition and "refused to make the deponent available" on the dates they requested. ECF No. 180 at 1, 3. Not so.

Defendants contacted Plaintiffs at 6:16 PM on July 1, 2025 and stated that weather-related travel cancelations were interfering with their ability to conduct Ms. Al-Ali's deposition in Boston as scheduled on July 2 at 10:30 AM. *See* Exhibit A (full email correspondence). Plaintiffs wrote back six minutes later and proposed to reschedule the deposition for later in the day or to conduct it remotely. *Id.* Defendants never responded to this proposal. Plaintiffs then wrote back to Defendants three more times over the course of the evening requesting a response to this proposal or confirmation that Defendants wished to cancel the deposition (Defendants omit these multiple

additional emails from the exhibit they attached to their motion). *Id.* Defendants did not respond until 1:28 AM, claiming that their phones were down and that it was “more likely than not” that the deposition would not go forward. *Id.* Defendants never contacted Plaintiffs to inquire whether there was another time that was workable for the deposition other than the dates they suggested.

In short, contrary to Defendants’ claim, Plaintiffs have made Ms. Al-Ali available for them to depose her. Defendants easily could have gotten on a plane in Washington in the morning and proceeded with the deposition. They easily could have conducted the deposition remotely. Defendants also have counsel of record located at the U.S. Attorney’s Office in Boston, where the deposition was scheduled to take place. They did not avail themselves of any of these options, opting instead to take up the Court’s time with a needless and misleading motion to compel.

Under these circumstances, Defendants waived their opportunity to depose Ms. Al-Ali. In the alternative, Plaintiffs can make Ms. Al-Ali available for four hours in the morning on July 6, 2025. The Court should accordingly deny Defendants’ motion.

July 2, 2025

Respectfully submitted,

Edwina Clarke (BBO 699702)
David Zimmer (BBO 692715)
Zimmer, Citron & Clarke, LLP
130 Bishop Allen Drive
Cambridge, MA 02139
(617) 676-9423
edwina@zimmercitronclarke.com

Ramya Krishnan
Carrie DeCell
Xiangnong Wang
Talya Nevins
Jackson Busch
Scott Wilkens
Alex Abdo
Jameel Jaffer

/s/ Noam Biale

Noam Biale
Michael Tremonte
Alexandra Conlon
Courtney Gans
Sher Tremonte LLP
90 Broad Street, 23rd Floor
New York, New York 10004
(212) 202-2603
nbiale@shertremonte.com
mtremonte@shertremonte.com

Ahilan T. Arulanantham (SBN 237841)
Professor from Practice
UCLA School of Law
385 Charles E. Young Dr. East
Los Angeles, CA 90095
(310) 825-1029

Knight First Amendment Institute
at Columbia University
475 Riverside Drive, Suite 302
New York, NY 10115
(646) 745-8500
ramya.krishnan@knightcolumbia.org

arulanantham@law.ucla.edu

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I, the undersigned counsel, certify that on July 2, 2025, I electronically filed the foregoing motion in the United States District Court for the District of Massachusetts using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: July 2, 2025

/s/ Noam Biale

Noam Biale